

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KAMAL S. KITTRELL,

Plaintiff,

v.

CIVIL ACTION NO. 06-CV-12593  
DISTRICT JOHN CORBETT O'MEARA  
MAGISTRATE JUDGE DONALD A. SCHEER

WAYNE COUNTY, WAYNE COUNTY  
PROSECUTOR'S OFFICE, CITY OF  
DETROIT, DETROIT POLICE DEPARTMENT,  
WAYNE COUNTY PROSECUTOR,  
LADAWN RUSSELL, MATTHEW GNATEK,  
THOMAS BERRY, OTHA CRAIGHEAD, and  
ERIC KIMBLE,

Defendants.

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ORDER DENYING PLAINTIFF'S MOTION TO COMPEL DISCOVERY AND  
PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT

Plaintiff, while incarcerated at the Huron Valley Correctional Facility (HVM), was allowed to proceed *in forma pauperis* and filed the instant Complaint, pursuant to 42 U.S.C. § 1983, on June 12, 2006, against various governmental entities, the Wayne County Prosecutor and five Detroit police officers claiming that he had been falsely arrested and maliciously prosecuted. In his Complaint, Plaintiff alleged that his Fourth Amendment right to be free from illegal search and seizure was violated when he was arrested on July 4, 2004, for armed robbery and carrying a concealed weapon in a motor vehicle. He also claimed that his due process rights under the Fourteenth Amendment were violated when certain criminal procedures leading up to his arraignment were not followed by either the police or prosecutors.

This cause comes before the Court on Plaintiff's Motion for Default Judgment (Docket #17) and Motion For Production of Documents (Docket #18) dated June 5, 2007. Since a timely Answer to the Complaint has been filed by Defendants, and they are not currently in violation of any order from this Court, Plaintiff's Motion for Default Judgment is DENIED. Plaintiff's Motion for Production of Documents is also DENIED, for failure to file proof of service along with the motion. Fed.R.Civ.P. 5(d); Evans v. Port Authority of New York & New Jersey, 246 F.Supp.2d 343 (D.C.N.Y. 2003).

SO ORDERED.

s/Donald A. Scheer  
DONALD A. SCHEER  
UNITED STATES MAGISTRATE JUDGE

DATED: January 10, 2008

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### CERTIFICATE OF SERVICE

I hereby certify on January 10, 2008 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on January 10, 2008. **Kamal Kittrell.**

s/Michael E. Lang  
Deputy Clerk to  
Magistrate Judge Donald A. Scheer  
(313) 234-5217